

ASSEMBLY BILL

No. 1250

Introduced by Assembly Member Perea

February 22, 2013

An act to add Article 12 (commencing with Section 1064) to Chapter 4 of Division 8 of the Evidence Code, relating to privileged communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as introduced, Perea. Privileged communications: crime stopper privilege.

Existing law provides several privileges against the compulsory release of certain types of information.

This bill would provide that a person shall not be required to disclose identifying information, as defined, regarding a person who submits statements of alleged criminal activity to a crime stopper organization, as defined, or to produce any records, documentary evidence, opinions, or decisions relating to the identifying information in connection with any criminal proceeding by way of any discovery procedure. The bill also would authorize a person arrested or charged with a criminal offense to petition the court for an in camera review of a privileged communication, and any records, documentary evidence, opinions, or decisions relating to that communication, on the basis of certain facts alleged in the petition, and would authorize a court to order production and disclosure to the petitioner's attorney as it deems appropriate, so long as identifying information is not disclosed. The bill would prohibit disclosure of the documents to certain individuals, except as specified, and would, if the petitioner is acting as his or her own attorney, require the court to order the production of documents to a private investigator

licensed by the Department of Consumer Affairs and appointed by the court or to impose other reasonable restrictions, as specified.

Section 28 of Article I of the California Constitution provides that relevant evidence shall not be excluded in any criminal proceeding except as provided by statute enacted by a $\frac{2}{3}$ vote of the membership of each house of the Legislature.

Because this bill would limit the admissibility of evidence in criminal proceedings, it would require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 12 (commencing with Section 1064) is
2 added to Chapter 4 of Division 8 of the Evidence Code, to read:

3
4 Article 12. Crime Stopper Privilege
5

6 1064. As used in this article, the following definitions apply:

7 (a) "Crime stoppers organization" means a private, nonprofit
8 organization that accepts and expends donations for rewards to
9 persons who report to the organization information concerning
10 alleged criminal activity and that forwards the information to the
11 appropriate law enforcement agency.

12 (b) "Identifying information" means information that identifies
13 a person who submits a statement of alleged criminal activity to
14 a crime stoppers organization by name, address, or telephone
15 number, and includes other information that would allow someone
16 to easily ascertain the identity of the person.

17 (c) "Privileged communication" means a statement by a person,
18 in any manner, to a crime stopper organization for the purpose of
19 reporting alleged criminal activity.

20 1065. (a) A person shall not be required to disclose identifying
21 information, by way of testimony or otherwise, or to produce,
22 under subpoena, any records, documentary evidence, opinions, or
23 decisions relating to the identifying information in connection with
24 a criminal proceeding by way of any discovery procedure.

25 (b) A person arrested or charged with a criminal offense may
26 petition the court for an in camera review of a privileged
27 communication, and any records, documentary evidence, opinions,

1 or decisions relating to the privileged communication, as it relates
2 to that person.

3 (1) The court shall determine if any of the documents relating
4 to the privileged communication may be relevant to the issue of
5 the petitioner's guilt or punishment or to any motions to suppress
6 that may be brought by the petitioner.

7 (2) If the court determines, pursuant to paragraph (1) that any
8 of the documents relating to the privileged communication may
9 be relevant, it may order their production and disclosure to the
10 petitioner's attorney as the court deems appropriate, so long as
11 identifying information is not disclosed.

12 (A) If the court orders the production of documents relating to
13 a privileged communication, the petitioner's attorney shall not
14 disclose the documents to the petitioner, members of the
15 petitioner's family, or any other person unless specifically
16 permitted to do so by the court after a hearing and upon a showing
17 of good cause.

18 (B) Notwithstanding subparagraph (A), the petitioner's attorney
19 may disclose or permit to be disclosed documents relating to a
20 privileged communication to persons employed by the attorney or
21 to persons appointed by the court to assist in the preparation of the
22 petitioner's case if disclosure is required for that purpose. The
23 attorney shall inform all persons provided with the documents that
24 further dissemination of the documents is prohibited, except as
25 provided by this section.

26 (C) If the petitioner is acting as his or her own attorney, the
27 court shall only order the production of documents relating to a
28 privileged communication to a private investigator licensed by the
29 Department of Consumer Affairs and appointed by the court or
30 impose other reasonable restrictions, absent a showing of good
31 cause as determined by the court.

32 (c) Notwithstanding subdivisions (a) and (b), identifying
33 information and privileged communications may be released with
34 the permission of the person who submitted the statement to the
35 crime stoppers organization.